

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of

Federal-State Joint Board on
Universal Service

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CC Docket No. 96-45

REPLY TO OPPOSITIONS TO PETITIONS TO DENY

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August 28, 1997

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Comcast Cellular Communications, Inc. ("Comcast") and Vanguard Cellular Systems, Inc. ("Vanguard") hereby jointly file their reply to oppositions to petitions for reconsideration of the Commission's May 8, 1997 Universal Service Order, Report and Order ("Order").^{1/}

I. INTRODUCTION AND SUMMARY

The Universal Service Order and the processes the FCC subsequently announced for the filing of revenue information for universal service assessment have created substantial uncertainty and unintended consequences for commercial mobile radio service ("CMRS") providers as they plan for future service deployment and network investment.

First, the Universal Service Order (and the USF worksheet) should more fully consider unique legal and practical issues associated with wireless telecommunications. For example, the Order does not fully address the jurisdictional issues created by Sections 2(b) and 332 of the Communications Act. And while the Order states that CMRS providers would be eligible to participate in high cost, Lifeline and Link Up programs, the Order fails to provide sufficient

^{1/} See appeal pending *sub nom. Texas Office of Public Utility Counsel v. FCC*, No. 97-60421 (5th Cir. June 25, 1997).

flexibility for CMRS providers to in fact to participate in these programs. In addition, the Order's rejection of USF surcharges in favor of permissive pass-through approach to carrier recovery of the USF assessment has serious implications in competitive markets which were not addressed by the Order.

Second, the USF program requires more sufficient checks on prospective payments and balances on total federal and state funding levels to ensure that the scope of the program does not expand beyond the parameters described in the Order. The FCC must acknowledge and define limits on its authority to raise and redistribute revenues through these programs in order to protect the investment backed expectations of telecommunications providers and to avoid stifling competition. Additionally, Comcast and Vanguard believe that the relevant portions of the 1996 Act are not intended to ensure the competitive success of rural LECs or any other party in future competitive markets. In competitive markets there is no guarantee that any LEC will recover its embedded costs.

Finally, Comcast and Vanguard are concerned that universal service funding, particularly that set for the support of high cost incumbent LECs, not diminish investment incentives in far more competitive segments of the telecommunications market, such as the CMRS market. The FCC has not specifically considered this point in selecting its method of assessment. While that method is facially uniform, it adversely affects carriers in competitive segments of the telecommunications markets, while cushioning the impact of universal service assessment on incumbent LECs. All these issues must be resolved expeditiously on reconsideration.

II. THERE ARE LEGAL AND PRACTICAL IMPEDIMENTS TO TREATING CMRS THE SAME AS OTHER CARRIERS FOR UNIVERSAL SERVICE PURPOSES

Comcast's and Vanguard's greatest concern is with the Order's apparent view of all telecommunications services as indistinguishable, without regard to the technology, service type, maturity of the market or competitive nature of the market. The legal and practical differences inherent in CMRS require that the FCC resolve the issues raised by many CMRS providers in their petitions for reconsideration prior to directing the USF administrator to assess universal service contributions on CMRS providers.

As Comcast and Vanguard expressed in their Joint Petition for Reconsideration of this Order, and as Comcast expressed in its Petition for Reconsideration of the Order reassessing FCC regulatory fees,^{2/} it appears as if the Commission has yet to distinguish the characteristics of CMRS which led to the amendments to Sections 2(b) and 332, and which — regardless of one's views of the scope of Section 332 — require the promulgation of regulations and policies for CMRS providers which must often differ from those established for other telecommunications marketplaces and industries. Among other things, Section 332 embodies Congress' express acknowledgment of the following:

- (i) that the Commission has always had unique jurisdiction of radio technologies under the Communications Act;
- (ii) that service areas which are created and licensed by the Commission often times overlap state boundaries;

^{2/} See Comcast Cellular Communications, Inc. Petition for Reconsideration and Comments on Further Notice of Proposed Rulemaking, MD Docket No. 96-186, filed August 11, 1997.

- (iii) that systems are deployed without reference to state boundaries, with cell sites and even switches serving multiple states;
- (iv) that as mobile services, usage by customers and customer expectations are not confined by state boundaries;
- (v) that competition and ubiquity in CMRS has the greatest potential to develop if unfettered by various state regulations, including the imposition of state universal service charges; and
- (vi) that local service plans offered to customers extend beyond state boundaries, well beyond traditional LEC local calling areas, and that with increasing competition, local service areas will expand even further — encouraging nationwide telecommunications services in a fashion and with a speed which continues to be unmatched by wireline services.

In short, Congress stated with overwhelming clarity that "CMRS is different" and therefore must be treated differently.^{3/} And yet, even with this legislative context, and the practical differences identified above, and many others,^{4/} the Order does not distinguish between CMRS and other services, jurisdictionally or otherwise.

^{3/} See House Report on the Omnibus Budget Reconciliation Act of 1993, H. Rep. No. 103-111 (1993) U.S.C.C.A.N. at 586-589.

^{4/} Among other things, CMRS must be viewed as the most competitive industry in light of the existing penetration levels of the industry, the fact that no carrier enjoys dominance, and the success of Commission initiatives such as the PCS auctions and modification of rules to permit the emergence of ESMR and satellite based competition. CMRS also is far from providing LEC replacement in all but rural areas as a result of the high cost of deployment and technical issues associated with frequency coordination.

Comcast and Vanguard were not alone in filing petitions for reconsideration regarding the differing legal basis for universal service as applied to CMRS.^{5/} Indeed, a number of CMRS provider petitions argued the significance of Sections 2(b) and 332 on the states' legal ability to collect intrastate universal service funds from CMRS providers. And only one day following the filing of petitions, the Eighth Circuit ruled on the FCC's Local Competition Order, affirming the FCC's preemptive jurisdiction over CMRS created in the 1993 Budget Act by the amendment of Sections 2(b) and 332.^{6/} In the Joint Opposition to Petitions for Reconsideration, Comcast and Vanguard argued that this action of the Eighth Circuit required the FCC to reassess the Order's basic assumption of split federal-state jurisdiction over CMRS. No oppositions took issue with Comcast and Vanguard's legal analysis of the wholly interstate nature of CMRS. In fact, many of the parties commenting on the Joint Petition agreed that the FCC immediately must reconsider its determination that CMRS providers can currently be required to pay into state universal service programs.^{7/}

This is not purely a jurisdictional or legal issue but is fundamental to the continued development of the CMRS industry. The wireless industry, although successful, is nonetheless

^{5/} See, e.g., Petition of Airtouch Communications, Inc. at 12-16; Petition of Cellular Telecommunications Industry Association at 1-10; Petition of Nextel Communications, Inc. at 6-10.

^{6/} See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996: Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, First Report and Order, CC Docket Nos. 96-98, 95-185, FCC 96-325, released August 8, 1996 ("Local Competition Order"), rev'd in part, Iowa Utilities Board et al. v. FCC, No. 96-3321, slip op. (8th Cir. July 18, 1997).

^{7/} As several petitioners/opposition filings point out, the FCC has not yet determined that CMRS has become a substitute for landline communications services to a substantial portion of the public in any state, the prerequisite for the FCC to permit states to assert rate, entry and universal service regulation over CMRS providers. See 47 U.S.C. § 332(c)(3)(A).

in its infancy. Moreover, it is in many ways a test for the pro-competitive policies which the Commission has pursued in recent years. Even if the Commission does not exercise full jurisdiction over wireless under Sections 2(b) and 332, it should acknowledge its primary jurisdiction over the industry in order to ensure that no action by a state authority has the effect of discriminating against CMRS providers or acting as a barrier to entry or as a form of rate regulation. The Commission should not permit any state to act in a manner which is inconsistent with its rules or policies as to CMRS, or to impose contribution requirements which are so high as to limit entry or development of CMRS networks. It is clear, however, that the most appropriate way to address this concern is for the Commission to pursue its jurisdiction under Sections 2(b) and 332 to the fullest extent.

The current structure as a practical matter leaves wireless carriers exposed to widely varying and not necessarily consistent state commission decisions on CMRS participation and funding of intrastate USF programs. As Comcast and Vanguard demonstrated in their Joint Petition and Joint Opposition, the development of diversified state programs that require CMRS providers to fund state initiatives in a manner that does not safeguard competitive neutrality will create enormous competitive dislocations. Other CMRS providers recognize this problem and seek FCC reconsideration on this issue so as to prevent state USF programs from violating basic statutory requirements.^{8/}

^{8/} See, e.g., Petition of the Cellular Telecommunications Industry Association at 10-12; Petition of Sprint Spectrum L.P. d/b/a Sprint PCS at 2; Comments of 360° Communications Company at 6; Comments of GTE Service Corporation at 18-21. Also, as explained in the Joint Petition, the Section 254 framework requires states to follow FCC program where their programs are inconsistent with the federal program. The FCC already has determined that a bedrock USF principle is the principle of competitive and technological neutrality.

Equally important, and also undisputed by commenters, is the need for the FCC to adopt "equitable" and "non-discriminatory" policies — not identical ones. Equity in this context requires that the Commission review the facts and circumstances affecting each industry segment, and adjust its policies accordingly. Section 332 is an explicit statement of this requirement. But even beyond that legal stricture, the Commission must be concerned with the impact of its rules on various industries and their end users.

Ironically the Commission appeared to take this very concern into account when it pursued access charge reform and revised certain other charges in the context of revamping universal service. Unfortunately, Vanguard and Comcast believe there are several respects in which that level of analysis must continue to be developed in order to address the needs of CMRS providers. As a result, while ostensibly all carriers will be assessed on the same basis, the impact of those assessments will differ radically depending upon industry segment. ILECs will offset their contribution by flowing it through to access charges and ILECs will continue to be the primary, if not exclusive, beneficiaries of the programs. Facilities-based IXC's will receive a reduction in certain charges to affect their contributions (notably, IXC's who resell others services will not so benefit, and therefore will suffer competitively). CMRS providers will simply pay new assessments with no offsetting benefit.

Another aspect of Comcast's and Vanguard's concern for the unique character of CMRS, and identified in their Joint Petition, is the need for flexible application of the basic universal service requirements to CMRS providers to facilitate CMRS eligibility to participate in high

cost, Lifeline and Link Up programs.^{9/} The objective of universal service should be the provision of basic telecommunications services to all customers. By requiring that all nine, wireline-based criteria be satisfied prior to eligibility for these programs, the Commission has established CMRS eligibility in name only. Thus, more guidance needs to be given on how CMRS can participate in these programs.

Given the unique nature of the wireless industry, the Commission's licensing of that industry and past support of it, and Congress' intent for that industry to be regulated differently, the Commission must assert full jurisdiction or risk undermining the core of Section 332 and growth of wireless competition and services to the public. No wireless competitor can sustain being treated identically to ILECs for federal or state universal service obligation purposes, particularly since the limits of "identical" treatment do not extend to receiving access revenues and guaranteed rates of return on investments. Failing immediate reconsideration of the FCC's jurisdiction, Comcast and Vanguard request that the FCC specify how CMRS providers are to comply with present FCC policy while maintaining their ability to receive refunds paid to state universal service funds during the time this issue remains unresolved.

If mobile services are valued as telecommunications services which should be available to all at affordable cost, then universal service programs must be broadly defined to account for the differences in wireless service markets. Comcast and Vanguard have recommended that the Commission reconsider requiring satisfaction of all nine landline-based criteria by CMRS

^{9/} While the Western Alliance filed a Petition for Reconsideration arguing that the FCC had, in fact been too flexible in its treatment of CMRS, none of the oppositions agreed with this aspect of the Western Alliance Petition. No oppositions disputed Comcast's and Vanguard's concerns.

providers, or at least redefining a number of the covered services. For example, under the Local Competition Order, the Commission established the MTA to be the local calling area for CMRS providers. It would seem appropriate, therefore, that analysis of the services eligible for subsidy be based upon the local service areas or calling areas applicable to a wireless provider, and that the measurement of "high cost" be tailored for the economic realities of the wireless marketplace.

Allowing recovery for partial compliance with the criteria would also help wireless carriers with the implementation of E911 services. The Commission currently requires wireless carriers to provide those services by 2001, subject to the establishment of a state cost recovery mechanism. A number of states are considering surcharges on wireless customers to raise needed revenue. Rather than creating a separate cost recovery mechanism, or running the risk of two government surcharges on a wireless customer's bill (which will not only burden the customer, but make wireless services less attractive), the Commission should establish that wireless carriers are to receive cost recovery for E911 from the various universal service funds to which they contribute. Again, the real objective — getting needed services to the public — will be more readily accomplished, and the ideal of all telecommunications carriers participating in the program will be more easily realized.

III. MANY UNRELATED COMMENTERS RECOGNIZE CRITICAL COMPETITIVE CONCERNS REQUIRE THAT USF PROGRAM FUNDING MUST BE BY MANDATORY SURCHARGE TO AVOID SKEWING COMPETITION

The oppositions demonstrate a wider recognition of the concern expressed by Comcast and Vanguard in their Joint Petition that the FCC's chosen assessment methodology and cost

recovery approach through permissive-pass throughs to end user customers will have serious, unintended competitive consequences and cannot be squared with the recognized need for competitive neutrality in administration of universal service programs. For example, AT&T, a number of CMRS providers as well as the Ad Hoc Telecommunications Users all point out in their oppositions the critical reasons for why the USF assessment has to be in the form of a mandatory end user surcharge applied by all telecommunications carriers — otherwise incumbent LECs can entirely blunt the effect of their contribution obligation by passing it on to their access customers, the IXCs.^{10/} The current formulation allows the USF contribution to become an enormous competitive advantage for the ILECs as they compete against new competitive LECs and resellers because the ILECs will readily pass off the lion's share of their contributions to others. An additional advantage for the ILECs under the current rules is that ILECs plainly will be the main recipients of universal service funding for the foreseeable future, while telecommunications carriers in competitive markets, such as the CMRS market, as well as CLECs and resellers, are more than likely to be net payors. As AT&T's Opposition points out, the most equitable and competitively neutral solution to this disparate competitive impact is to require that all carriers assess end user surcharges based on their telecommunications revenues for the recovery of USF costs.^{11/}

The Commission's apparent concern in not requiring an end user surcharge approach was its fear that anything other than a permissive cost recovery would limit carrier pricing

^{10/} See, e.g., Opposition of AT&T Corp. at 14-17; Comments of the Ad Hoc Telecommunications Users Committee at 6-10; Comments of the Telecommunications Resellers Association at 3; Comments of GTE Service Corporation at 3-5.

^{11/} See AT&T Corp. Opposition at 15.

flexibility.^{12/} The FCC, however, did not consider the disparate competitive impact of its permissive approach and its impact on consumers who will be reacting to artificial pricing signals if the ILEC portion of the telecommunications market can shield its end user customers from paying universal service while telecommunications providers in more competitive segments of the market must assess USF charges. Simply leaving the decision up to the carrier creates serious competitive problems that the FCC must explore on reconsideration. As AT&T suggests in its Opposition, a mandatory end user surcharge is a more competitively neutral cost recovery mechanism. There is certainly no reason to believe that such a cost recovery program would not satisfy the Congressional mandate for sufficient and predictable funding for USF programs.^{13/} Another reason for requiring a surcharge, as Vanguard and Comcast have previously noted, is a competitive advantage CMRS carriers with large regional or national operations would have over smaller CMRS carriers that do not have massive customer bases over which to spread the impact of the assessment. A larger carrier such as Bell Atlantic/NYNEX Mobile may choose to spread these costs rather than pass them through, creating the appearance that Comcast's service is, in comparison, too costly.

Finally, while Comcast/Vanguard remain fully supportive of the social policy goals of the schools and libraries program and the rural healthcare program, these programs (and even more

^{12/} See Order at § 853.

^{13/} In addition, unnecessary uncertainty will be created if one carrier in a market determines to pass through all or part of the USF assessment as a surcharge and other carriers follow suit. While such behavior is predictable and represents entirely reasonable and independent business judgments, it is possible that such a pattern might be seized as a reason for plaintiff's lawyers to file antitrust lawsuits on behalf of "professional" plaintiffs, thereby raising a carrier's costs of doing business substantially. A required end user surcharge is more likely to alleviate this unnecessary uncertainty.

directly the high cost USF program) will have an adverse impact on carriers' investment incentives and, as the assessment now stands, carriers' competitive positions.^{14/} Therefore, the Commission also must clarify its intentions with respect to surcharges established by various carriers. If they cannot be referred to as "taxes" or "surcharges," how should they be characterized to the end user? Comcast and Vanguard believe that they are most appropriately characterized as a "tax;" however, more guidance is required. How are these surcharges to be characterized for federal and state tax purposes? If the FCC does not appropriately characterize mandatory or permissive surcharges, carriers run the risk of being assessed additional federal and state income taxes on pass-throughs to end users when the sole purpose of the pass-throughs is to fund the universal service program. And how will these surcharges be characterized for purposes of the universal service fund worksheet? The surcharge would not constitute revenues for a telecommunications service, but rather represent a government assessment or imposition.

IV. THE FCC MUST ENSURE THAT USF PROCESSES MINIMIZE DISRUPTION AND UNCERTAINTY FOR CONTRIBUTORS

Comcast and Vanguard have continuing concerns with the presence of checks and balances to ensure that the USF Administrator does not increase contribution rates unnecessarily.^{15/} Many potential contributors filed comments before the Joint Board and the

^{14/} As Comcast and Vanguard have observed, even if all carriers are directed to pass-through the USF assessment, the demand for wireless services is not elastic. Most CMRS services are viewed not as a basic necessity. As noted above, if the pass-through is left to individual carriers, such discretion can be wielded as a competitive weapon by the ILECs and ILEC CMRS affiliates.

^{15/} See Changes to the Board of Directors of the National Exchange Carrier Association Inc.: Federal-State Joint Board on Universal Service, Report and Order and Second Order on Reconsideration, CC Docket No. 96-45 and 97-21, FCC 97-253, released July 18, 1997 ("NECA

FCC pleading that USF programs not be overfunded, unwieldy programs that take on a purpose beyond funding the minimum necessary subsidies. Comcast and Vanguard believe that this concept remains critical to the viability of the program.

Neither Comcast nor Vanguard intends to use this pleading to engage in a discussion of whether the USF programs are constitutional.^{16/} Both companies are strong supporters of schools and libraries, and recognize the imperative of providing basic telephony services to all persons at reasonable cost. However, the Commission must establish predictable limiting principles upon its authority to raise and redistribute funds under the program. Will it be within NECA's or even the Commission's discretion to expand the objectives of the programs and in so doing increase the aggregate amount sought to be collected? Under what criteria? At minimum these questions should be addressed in order to ensure the viability of the program, and to demonstrate the Commission's commitment to the type of predictability in government regulation required by all private businesses.

Another important aspect of ensuring stability for private business is the time horizon for reconsideration and fine tuning of the worksheet and procedures. To the greatest extent possible, this should be accomplished quickly so that contributors have a reasonable level of certainty. The USF program will yield significant business planning problems if the processes and

Order"). More specific process concerns will be raised in more detail in a petition for reconsideration of the NECA Order.

^{16/} As the FCC is aware, SBC Communications has already raised this legal issue in a pending Motion for Stay of the Universal Service Order. *See* Joint Petition for a Stay Pending Judicial Review, filed by Southwestern Bell Telephone Company and Pacific Bell, Nevada Bell on July 3, 1997. Depending upon the outcome of the SBC Petition, the FCC may want to establish refund mechanisms for funds assessed by the program.

procedures are under continual review, and if recalculation of assessments remains a possibility until the very end of the calendar year or even beyond.

One other place where appropriate sensitivity to business planning needs appears especially necessary is in the FCC's determination that the USF administrator should recalculate revenues and expenses on a quarterly basis, adjusting assessments on contributors accordingly. It is simply unrealistic to expect that commercial businesses will be able to adjust their plans based on unpredictable quarterly reassessments of the levies.^{17/} It would be more appropriate for the Commission to establish a reasonable maximum rate so that carriers can plan appropriately. That rate should be established once a year in September so that businesses may budget for the next succeeding calendar year. It is especially critical for firms in growing, increasingly competitive industries to be able to plan for these mandatory expenditures.

V. INCUMBENT RURAL LECS ARE NOT ENTITLED TO SUBSIDIES BASED ON THEIR EMBEDDED COSTS

Finally, many oppositions, like that of Comcast and Vanguard, opposed rural LEC arguments of their entitlement to growing subsidies based on their embedded costs.^{18/} The 1996 Act provided rural LECs numerous potential exemptions from interconnection and other legal obligations otherwise imposed on incumbent LECs based on the concern that these carriers would not have the wherewithal to provide the same interconnection and customer operations as

^{17/} The procedure as currently adopted would require carriers to place large unnecessary reserves on their books to account for the possibility that the assessment rate will change quarterly to an unknown amount.

^{18/} See Opposition of AT&T Corp. at 8-11; Opposition of Airtouch Communications, Inc. at 15-17; Comments of General Communications, Inc. at 4-6.

larger LECs. It is apparent based on the petitions and oppositions filed by rural LECs and their trade associations that these carriers are not content merely to seek these exemptions and continue to collect universal service funds, albeit under a revised program that puts rural LECs on a much needed efficiency diet. Instead, many rural LECs have sought and obtained exemptions from the full scope of ILEC interconnection obligations for indefinite periods, while continuing to assess those non-incumbent carriers that they do interconnect with fully embedded cost rates for interconnection in violation of the 1996 Act pricing provisions.^{19/} It is contrary to both the Local Competition Order and the Universal Service Order for rural LECs to attempt to continue to collect their fully embedded costs from interconnectors, while at the same time continuing to claim entitlement to universal service funds also on a fully embedded cost basis. There is still a need for further FCC clarification of this point.

Many oppositions focused on the petition filed by the Western Alliance that objected to the Universal Service Order's adoption of a competitive neutrality as a bedrock principle of universal service.^{20/} Comcast and Vanguard agree that Section 254 and the 1996 Act more generally are not intended to ensure the competitive success of rural LECs, or any other party in

^{19/} In Horry County South Carolina, for example, the Horry County Telephone Company has filed cost studies with the South Carolina PSC that propose to raise their 2.6 per minute interim rate to a fully embedded cost recovery rate for interconnection of 3.4 cents per minute. Such a rate is grossly inconsistent with the pricing standards for reciprocal transport and termination contained in Section 252(d)(2) as interpreted by the FCC. See Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan, Memorandum Opinion and Order, CC Docket No. 97-137, FCC 97-298, released August 18, 1997 at ¶ 293.

^{20/} See, e.g., Opposition of Airtouch Communications, Inc. at 3-5; Opposition of Cellular Telecommunications Industry Association at 3-7; Comments of the Personal Communications Industry Association at 16-19.

future competitive markets. Nothing in Sections 252 or 254 guarantees any LEC that it will recover its embedded costs. Rather, Section 252 allows for the recovery of actual incremental costs for reciprocal transport and termination and Section 254 creates a framework to ensure that the enunciated principles of universal service are realized — not that rural LECs are protected from potential competition by more efficient competitors.^{21/} Rather than identify a problem with the FCC's universal service program, rural LECs are attempting to preserve barriers through the universal service program in order to shield themselves from competition. As the FCC has properly recognized, neither Section 254 nor any other portion of the 1996 Act supports this effort.

VI. CONCLUSION

The FCC has had a daunting task in translating the new universal service statutory goals of section 254 into concrete, viable programs. It is extremely unlikely that given the complexity of the undertaking and the potential financial stakes involved that all interested parties would be pleased with all of the results. Comcast and Vanguard believe that the constructive suggestions they have made in the Joint Petition, Joint Opposition, and this Reply will assist the Commission in its process of reconsidering the Universal Service Order. Accordingly, the Commission

^{21/} Many oppositions accurately point to the speculative nature of rural LEC assertions that they will suffer immediate financial harm if even the most limited restrictions on their spending are imposed. *See e.g.* Opposition of Airtouch Communications, Inc. at 16-17; Opposition of AT&T Corp. at 10-11; Opposition of MCI Telecommunications Corporation at 2-10.

should reconsider the aspects of its universal service program that do not distinguish for legal and practical purposes CMRS providers. Further, reconsideration is necessary so that USF assessments do not become a competitive weapon used by ILECs against competitive carriers and so competitive neutrality truly becomes a centerpiece of the Commission's analysis in formulating universal service policies.

Respectfully submitted,

COMCAST CELLULAR COMMUNICATIONS, INC.

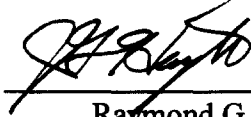
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August 28, 1997

CERTIFICATE OF SERVICE

I, Vicki Lynne Lyttle, do hereby state that I caused the foregoing "**REPLY TO OPPOSITIONS TO PETITIONS TO DENY**" to be sent by hand-delivery, this 28th day of August, 1997 to the following:

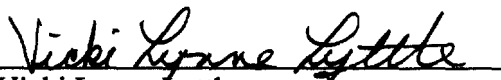
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